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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,591	07/25/2001	P. Christopher J. Gallagher	38123-152966	8700

3775 7590 09/17/2004

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EXAMINER

YOUNG, JOHN L

ART UNIT PAPER NUMBER

3622

DATE MAILED: 09/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/912,591

Applicant(s)

GALLAGHER, P. CHRISTOPHER  
J.

Examiner

John L Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2001.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-149 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-149 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/7/2004.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

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## **NON-FINAL REJECTION**

### **DRAWINGS**

1. This application has been filed with drawings that are considered informal; however, said drawings are acceptable for examination and publication purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

### **CLAIM OBJECTIONS**

Claim 33 is objected to because of the following informalities:

2. Claim 33, at line 4, after the word "the" first occurrence, delete the phrase "of the".

### **CLAIM REJECTIONS — 35 U.S.C. §101**

35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful process,  
machine, manufacture, or composition of matter or any new and  
useful improvement thereof, may obtain a patent therefore, subject  
to the conditions and requirements of this title.

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3. Claims 1-36, 72-74, 77-80 & 86-87 are rejected under 35 U.S.C. 101, because said claim is directed to non-statutory subject matter.

As per claims 1-36, 72-74, 77-80 & 86-87, as drafted said claims are not limited by language within the technological arts (see *In re Waldbaum*, 173 USPQ 430 (CCPA 1972); *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974) also see MPEP 2106 IV 2(b), even though said claims are limited by language to a useful, concrete and tangible application (See *State Street v. Signature financial Group*, 149 F.3d at 1374-75 , 47 USPQ 2d at 1602 (Fed Cir. 1998) ; *AT&T Corp. v. Excel*, 50 USPQ 2d 1447, 1452 (Fed. Cir. 1999).

Note: it is well settled in the law that "[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415, F.2d 1393, 162 USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claims that are not recited in the claims." (See MPEP 2173.05( q )).

#### **CLAIM REJECTION — 35 U.S.C. §103( a )**

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all

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obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-149 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kalina 6,243,688 (06/05/1991) [US f/d: 08/25/1999] (herein referred to as "Kalina").

As per claim 1, Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows: "A computer based method for carrying out an incentive award program by a business entity comprising the steps of . . . participating in a quantifiable transaction, the quantifiable transaction having at least two transacting parties . . . determining at least one of the transacting parties to be a recipient of an incentive award offered by the business entity, the incentive award comprising at least one investment chosen from a plurality of vehicles for investment . . . providing the chosen incentive award to the recipient, wherein the business entity

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is selected from the group consisting of the owner of the incentive award program and an authorized operator of the incentive award program, wherein the authorized operator has authority to carry out at least in part the incentive award program.”

Kalina lacks explicit recitation of “an incentive award program.”

It would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows “an incentive award program”; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as showing “an incentive award program”, because modification and interpretation of the cited disclosure of Kalina would have provided means “*for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .*” (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to “[have] rewards/credits tailored to a particular market. . . .” (see Kalina (col. 1, ll. 48-57))).

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As per dependent claims 2-36, Kalina shows the method of claim 1 and subsequent base claims depending from claim 1.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 2-36; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 2-36; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 2-36 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 2-36 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 2-36, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an*

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*investment vehicle. . . .*" (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to "[have] rewards/credits tailored to a particular market. . . ." (see Kalina (col. 1, ll. 48-57)).

Independent claim 37 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 38-71, Kalina shows the method of claim 37 and subsequent base claims depending from claim 37.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 38-71; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 38-71; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 38-71 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and



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limitations of claims 38-71 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 38-71, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 72 is rejected for substantially for the same reasons as independent claim 1.

As per dependent claims 73-76, Kalina shows the method of claim 72 and subsequent base claims depending from claim 72.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 73-76; however,

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Kalina lacks explicit recitation of some of the elements and limitations of claims 73-76; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 73-76 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 73-76 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 73-76, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 77 is rejected for substantially the same reasons as independent claim 1.

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As per dependent claims 78-80, Kalina shows the method of claim 77 and subsequent base claims depending from claim 77.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 78-80; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 78-80; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 78-80 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 78-80 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 78-80, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using*

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*the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .*” (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to “[have] rewards/credits tailored to a particular market. . . .” (see Kalina (col. 1, ll. 48-57)).

Independent claim 81 is rejected for substantially the same reasons as independent claim 77.

As per dependent claims 82-85, Kalina shows the method of claim 81 and subsequent base claims depending from claim 81.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 82-85; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 82-85; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 82-85 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined

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with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 82-85 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 82-85, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 86 is rejected for substantially the same reasons as independent claim 81.

As per dependent claim 87, Kalina shows the method of claim 86 and subsequent base claims depending from claim 86.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claim 87; however,

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Kalina lacks explicit recitation of some of the elements and limitations of claim 87; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claim 87 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claim 87 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claim 87, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 88 is rejected for substantially the same reasons as independent claim 86.

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As per dependent claims 89-90, Kalina shows the method of claim 88 and subsequent base claims depending from claim 88.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 89-90; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 89-90; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 89-90 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 89-90 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 89-90, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using*

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*the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .*” (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to “[have] rewards/credits tailored to a particular market. . . .” (see Kalina (col. 1, ll. 48-57)).

Independent claim 91 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 89-90, Kalina shows the method of claim 88 and subsequent base claims depending from claim 88.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 92-97; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 92-97; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 92-97 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined



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with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 92-97 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 92-97, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 98 is rejected for substantially the same reasons as independent claim 1.

As per dependent claims 99-133, Kalina shows the method of claim 98 and subsequent base claims depending from claim 98.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 99-133; however,

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Kalina lacks explicit recitation of some of the elements and limitations of claims 99-133; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 99-133 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 99-133 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 99-133, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 134 is rejected for substantially the same reasons as independent claim 1.

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As per dependent claims 135-143, Kalina shows the method of claim 134 and subsequent base claims depending from claim 134.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claims 135-143; however,

Kalina lacks explicit recitation of some of the elements and limitations of claims 135-143; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claims 135-143 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claims 135-143 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claims 135-143, because modification and interpretation of the cited disclosure of Kalina would have provided means *"for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a*

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*consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .” (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to “[have] rewards/credits tailored to a particular market. . . .” (see Kalina (col. 1, ll. 48-57))).*

Independent claim 144 is rejected for substantially the same reasons as independent claim 81.

As per dependent claim 145, Kalina shows the method of claim 144 and subsequent base claims depending from claim 144.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claim 145; however,

Kalina lacks explicit recitation of some of the elements and limitations of claim 145; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claim 145 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined

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with the knowledge of one skilled in the art implicitly shows those elements and limitations of claim 145 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claim 145, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 146 is rejected for substantially the same reasons as independent claim 86.

As per dependent claim 147, Kalina shows the method of claim 146 and subsequent base claims depending from claim 146.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claim 147; however,

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Kalina lacks explicit recitation of some of the elements and limitations of claim 147; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claim 147 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claim 147 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claim 147, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .”* (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to *“[have] rewards/credits tailored to a particular market. . . .”* (see Kalina (col. 1, ll. 48-57)).

Independent claim 148 is rejected for substantially the same reasons as independent claim 1.

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As per dependent claim 149, Kalina shows the method of claim 148 and subsequent base claims depending from claim 148.

Kalina (the ABSTRACT; FIG. 1-1; FIG. 1-2; FIG. 2; col. 2, ll. 57-63; col. 5, ll. 6-27; col. 1, ll. 13, ll. 67; col. 2, ll. 1-57; col. 2, ll. 67-67; col. 3, ll. 1-67; col. 4, ll. 1-67; col. 5, ll. 1-67; col. 6, ll. 1-58; and whole document) implicitly shows all of the elements and limitations of claim 149; however,

Kalina lacks explicit recitation of some of the elements and limitations of claim 149; therefore,

Official Notice is taken that both the concepts and the advantages of those elements and limitations of dependent claim 149 not explicitly shown by Kalina were notoriously well known and expected in the art at the time of the invention, because it would have been obvious at the time the invention was made to a person having ordinary skill in the art that the disclosure of Kalina cited above combined with the knowledge of one skilled in the art implicitly shows those elements and limitations of claim 149 which are not explicitly recited in Kalina; and it would have been obvious to modify and interpret the disclosure of Kalina cited above as implicitly showing all of the elements and limitations of claim 149, because modification and interpretation of the cited disclosure of Kalina would have provided means *“for establishing and processing a purchase award account wherein purchase credit awards resulting from a purchase by a consumer using*

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*the purchase award account is exchanged into an ownership interest in an investment vehicle. . . .*” (see Kalina (col. 2, ll. 18-35), based on the motivation to modify Kalina so as to “[have] rewards/credits tailored to a particular market. . . .” (see Kalina (col. 1, ll. 48-57)).

### CONCLUSION

5. Any response to this action should be mailed to:

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703) 746-7239 or (703) 872-9314 (for formal communications EXPEDITED PROCEDURE) or

(703) 746-7239 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh floor Receptionist

Crystal Park V

2451 Crystal Drive

Arlington, Virginia.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.



Serial Number: 09/912,591

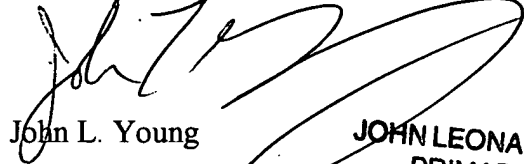
(Gallagher)

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.



John L. Young

**JOHN LEONARD YOUNG, ESQ.  
PRIMARY EXAMINER**

Primary Patent Examiner

September 7, 2004